

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

JESSE BAILEY, IV,

Plaintiff,

v.

ELOY A. ITUARTE, *et al.*,

Defendants.

Case No. 3:20-cv-00123-MMD-WGC

ORDER

This action began with a *pro se* civil rights complaint filed under 42 U.S.C. § 1983 by Jesse Bailey, IV, a former county pretrial detainee. On March 19, 2021, the Court issued an order directing Bailey to file his updated address on or before April 16, 2021. (ECF No. 5.) The deadline has now expired, and Bailey has not filed his updated address or otherwise responded to the Court's order.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (affirming dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (affirming dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (affirming dismissal for lack of prosecution and failure to comply with local rules).

1 In determining whether to dismiss an action for lack of prosecution, failure to obey
2 a court order, or failure to comply with local rules, the court must consider several factors:
3 (1) the public's interest in expeditious resolution of litigation; (2) the court's need to
4 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring
5 disposition of cases on their merits; and (5) the availability of less drastic alternatives.
6 See *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at
7 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

8 Here, the Court finds that the first two factors, the public's interest in expeditiously
9 resolving this litigation and the Court's interest in managing the docket, weigh in favor of
10 dismissal. The third factor, risk of prejudice to Defendants, also weighs in favor of
11 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay
12 in filing a pleading ordered by the court or prosecuting an action. See *Anderson v. Air*
13 *West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public policy favoring
14 disposition of cases on their merits—is greatly outweighed by the factors in favor of
15 dismissal discussed herein. Finally, a court's warning to a party that his failure to obey
16 the court's order will result in dismissal satisfies the "consideration of alternatives"
17 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779 F.2d
18 at 1424. The Court's order requiring Bailey to file his updated address with the Court on
19 or before April 16, 2021, expressly stated: "IT IS FURTHER ORDERED that, if Plaintiff
20 fails to timely comply with this order, this case will be subject to dismissal without
21 prejudice." (ECF No. 5.) Thus, Bailey had adequate warning that dismissal would result
22 from his noncompliance with the Court's order to file his updated address on or before
23 April 16, 2021.

24 It is therefore ordered that this action is dismissed without prejudice based on
25 Bailey's failure to file an updated address in compliance with this Court's March 19, 2021,
26 order.

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1 It is further ordered that the application to proceed *in forma pauperis* (ECF No. 1)
2 and the motion for appointment of counsel (ECF No. 1-2) are denied as moot.

3 The Clerk of Court is directed to close the case.

4 DATED THIS 21st Day of April 2021.

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7 MIRANDA M. DU
8 CHIEF UNITED STATES DISTRICT JUDGE
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